

## IC 6-3-2

### Chapter 2. Imposition of Tax and Deductions

#### IC 6-3-2-1a

##### Rate of tax

*Note: This version of section effective until 1-1-2003. See also following version of this section, effective 1-1-2003.*

Sec. 1. (a) Each taxable year, a tax at the rate of three and four-tenths percent (3.4%) of adjusted gross income is imposed upon the adjusted gross income of every resident person, and on that part of the adjusted gross income derived from sources within Indiana of every nonresident person.

(b) Each taxable year, a tax at the rate of three and four-tenths percent (3.4%) of adjusted gross income is imposed on that part of the adjusted gross income derived from sources within Indiana of every corporation.

*(Formerly: Acts 1963(ss), c.32, s.201; Acts 1973, P.L.50, SEC.1.) As amended by Acts 1979, P.L.68, SEC.1; Acts 1981, P.L.77, SEC.8; P.L.2-1982(ss), SEC.8; P.L.47-1984, SEC.4; P.L.390-1987(ss), SEC.37.*

#### IC 6-3-2-1b

##### Tax rate

*Note: This version of section effective 1-1-2003. See also preceding version of this section, effective until 1-1-2003.*

Sec. 1. (a) Each taxable year, a tax at the rate of three and four-tenths percent (3.4%) of adjusted gross income is imposed upon the adjusted gross income of every resident person, and on that part of the adjusted gross income derived from sources within Indiana of every nonresident person.

(b) Each taxable year, a tax at the rate of eight and five-tenths percent (8.5%) of adjusted gross income is imposed on that part of the adjusted gross income derived from sources within Indiana of every corporation.

*(Formerly: Acts 1963(ss), c.32, s.201; Acts 1973, P.L.50, SEC.1.) As amended by Acts 1979, P.L.68, SEC.1; Acts 1981, P.L.77, SEC.8; P.L.2-1982(ss), SEC.8; P.L.47-1984, SEC.4; P.L.390-1987(ss), SEC.37; P.L.192-2002(ss), SEC.70.*

#### IC 6-3-2-2a

##### Corporations and nonresidents; "adjusted gross income derived from sources in state" defined

*Note: This version of section effective until 1-1-2003. See also following version of this section, effective 1-1-2003.*

Sec. 2. (a) With regard to corporations and nonresident persons, "adjusted gross income derived from sources within Indiana", for the purposes of this article, shall mean and include:

- (1) income from real or tangible personal property located in this state;
- (2) income from doing business in this state;

- (3) income from a trade or profession conducted in this state;
- (4) compensation for labor or services rendered within this state;
- and
- (5) income from stocks, bonds, notes, bank deposits, patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other intangible personal property if the receipt from the intangible is attributable to Indiana under section 2.2 of this chapter.

In the case of nonbusiness income described in subsection (g), only so much of such income as is allocated to this state under the provisions of subsections (h) through (k) shall be deemed to be derived from sources within Indiana. In the case of business income, only so much of such income as is apportioned to this state under the provision of subsection (b) shall be deemed to be derived from sources within the state of Indiana. In the case of compensation of a team member (as defined in section 2.7 of this chapter) only the portion of income determined to be Indiana income under section 2.7 of this chapter is considered derived from sources within Indiana.

(b) Except as provided in subsection (l), if business income of a corporation or a nonresident person is derived from sources within the state of Indiana and from sources without the state of Indiana, then the business income derived from sources within this state shall be determined by multiplying the business income derived from sources both within and without the state of Indiana by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three (3). However, after a period of two (2) consecutive quarters of income growth and one (1) additional quarter (regardless of any income growth), the fraction shall be computed as follows:

(1) For all taxable years that begin within the first calendar year immediately following the period, the numerator of the fraction is the sum of the property factor plus the payroll factor plus one hundred thirty-three percent (133%) of the sales factor, and the denominator of the fraction is three and thirty-three hundredths (3.33).

(2) For all taxable years that begin within the second calendar year following the period, the numerator of the fraction is the property factor plus the payroll factor plus one hundred sixty-seven percent (167%) of the sales factor, and the denominator of the fraction is three and sixty-seven hundredths (3.67).

(3) For all taxable years beginning on or after January 1 of the third calendar year following the period, the numerator of the fraction is the property factor plus the payroll factor plus two hundred percent (200%) of the sales factor, and the denominator of the fraction is four (4).

For purposes of this subsection, income growth occurs when the state's nonfarm personal income for a calendar quarter increases in comparison with the state's nonfarm personal income for the immediately preceding quarter at an annualized compound rate of five percent (5%) or more, as determined by the budget agency based on

current dollar figures provided by the Bureau of Economic Analysis of the United States Department of Commerce or its successor agency. The annualized compound rate shall be computed in accordance with the formula  $(1+N)^4-1$ , where N equals the percentage change in the state's current dollar nonfarm personal income from one (1) quarter to the next. As soon as possible after two (2) consecutive quarters of income growth, the budget agency shall advise the department of the growth.

(c) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the taxable year. However, with respect to a foreign corporation, the denominator does not include the average value of real or tangible personal property owned or rented and used in a place that is outside the United States. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The average of property shall be determined by averaging the values at the beginning and ending of the taxable year but the department may require the averaging of monthly values during the taxable year if reasonably required to reflect properly the average value of the taxpayer's property.

(d) The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the taxable year by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the taxable year. However, with respect to a foreign corporation, the denominator does not include compensation paid in a place that is outside the United States. Compensation is paid in this state if:

- (1) the individual's service is performed entirely within the state;
- (2) the individual's service is performed both within and without this state, but the service performed without this state is incidental to the individual's service within this state; or
- (3) some of the service is performed in this state and:
  - (A) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in this state; or
  - (B) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual is a resident of this state.

(e) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the taxable year, and the denominator of which is the total sales of the taxpayer everywhere during the taxable year. Sales include receipts from intangible property and receipts from the sale or exchange of intangible property. However, with respect to a foreign corporation, the denominator does not include sales made in a place that is outside the United States. Receipts from

intangible personal property are derived from sources within Indiana if the receipts from the intangible personal property are attributable to Indiana under section 2.2 of this chapter. Sales of tangible personal property are in this state if:

- (1) the property is delivered or shipped to a purchaser, other than the United States government, within this state, regardless of the f.o.b. point or other conditions of the sale; or
- (2) the property is shipped from an office, a store, a warehouse, a factory, or other place of storage in this state and:
  - (A) the purchaser is the United States government; or
  - (B) the taxpayer is not taxable in the state of the purchaser.

Gross receipts derived from commercial printing as described in IC 6-2.1-2-4 shall be treated as sales of tangible personal property for purposes of this chapter.

(f) Sales, other than receipts from intangible property covered by subsection (e) and sales of tangible personal property, are in this state if:

- (1) the income-producing activity is performed in this state; or
- (2) the income-producing activity is performed both within and without this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(g) Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in subsections (h) through (k).

(h)(1) Net rents and royalties from real property located in this state are allocable to this state.

(2) Net rents and royalties from tangible personal property are allocated to this state:

- (i) if and to the extent that the property is utilized in this state; or
- (ii) in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(3) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year, and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

(i)(1) Capital gains and losses from sales of real property located in this state are allocable to this state.

(2) Capital gains and losses from sales of tangible personal property are allocable to this state if:

- (i) the property had a situs in this state at the time of the sale; or
- (ii) the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a

situs.

(3) Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

(j) Interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state.

(k)(1) Patent and copyright royalties are allocable to this state:

(i) if and to the extent that the patent or copyright is utilized by the taxpayer in this state; or

(ii) if and to the extent that the patent or copyright is utilized by the taxpayer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

(2) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(3) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

(l) If the allocation and apportionment provisions of this article do not fairly represent the taxpayer's income derived from sources within the state of Indiana, the taxpayer may petition for or the department may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(1) separate accounting;

(2) the exclusion of any one (1) or more of the factors;

(3) the inclusion of one (1) or more additional factors which will fairly represent the taxpayer's income derived from sources within the state of Indiana; or

(4) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

(m) In the case of two (2) or more organizations, trades, or businesses owned or controlled directly or indirectly by the same interests, the department shall distribute, apportion, or allocate the income derived from sources within the state of Indiana between and among those organizations, trades, or businesses in order to fairly reflect and report the income derived from sources within the state of Indiana by various taxpayers.

(n) For purposes of allocation and apportionment of income under this article, a taxpayer is taxable in another state if:

(1) in that state the taxpayer is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

(2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does

not.

(o) Notwithstanding subsections (l) and (m), the department may not, under any circumstances, require that income, deductions, and credits attributable to a taxpayer and another entity be reported in a combined income tax return for any taxable year, if the other entity is:

(1) a foreign corporation; or

(2) a corporation that is classified as a foreign operating corporation for the taxable year by section 2.4 of this chapter.

(p) Notwithstanding subsections (l) and (m), the department may not require that income, deductions, and credits attributable to a taxpayer and another entity not described in subsection (o)(1) or (o)(2) be reported in a combined income tax return for any taxable year, unless the department is unable to fairly reflect the taxpayer's adjusted gross income for the taxable year through use of other powers granted to the department by subsections (l) and (m).

(q) Notwithstanding subsections (o) and (p), one (1) or more taxpayers may petition the department under subsection (l) for permission to file a combined income tax return for a taxable year. The petition to file a combined income tax return must be completed and filed with the department not more than thirty (30) days after the end of the taxpayer's taxable year.

*(Formerly: Acts 1963(ss), c.32, s.204; Acts 1965, c.233, s.13; Acts 1971, P.L.64, SEC.4.) As amended by P.L.82-1983, SEC.4; P.L.16-1984, SEC.4; P.L.75-1985, SEC.4; P.L.78-1989, SEC.8; P.L.347-1989(ss), SEC.6; P.L.65-1991, SEC.1; P.L.71-1993, SEC.13; P.L.63-1997, SEC.1.*

### **IC 6-3-2-2b**

#### **"Adjusted gross income derived from sources within Indiana" defined; apportionment; payroll factor; sales factor; property factor**

*Note: This version of section effective 1-1-2003. See also preceding version of this section, effective until 1-1-2003.*

Sec. 2. (a) With regard to corporations and nonresident persons, "adjusted gross income derived from sources within Indiana", for the purposes of this article, shall mean and include:

(1) income from real or tangible personal property located in this state;

(2) income from doing business in this state;

(3) income from a trade or profession conducted in this state;

(4) compensation for labor or services rendered within this state; and

(5) income from stocks, bonds, notes, bank deposits, patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other intangible personal property if the receipt from the intangible is attributable to Indiana under section 2.2 of this chapter.

In the case of nonbusiness income described in subsection (g), only so much of such income as is allocated to this state under the provisions of subsections (h) through (k) shall be deemed to be derived from sources within Indiana. In the case of business income, only so much

of such income as is apportioned to this state under the provision of subsection (b) shall be deemed to be derived from sources within the state of Indiana. In the case of compensation of a team member (as defined in section 2.7 of this chapter) only the portion of income determined to be Indiana income under section 2.7 of this chapter is considered derived from sources within Indiana. In the case of a corporation that is a life insurance company (as defined in Section 816(a) of the Internal Revenue Code) or an insurance company that is subject to tax under Section 831 of the Internal Revenue Code, only so much of the income as is apportioned to Indiana under subsection (r) is considered derived from sources within Indiana.

(b) Except as provided in subsection (l), if business income of a corporation or a nonresident person is derived from sources within the state of Indiana and from sources without the state of Indiana, then the business income derived from sources within this state shall be determined by multiplying the business income derived from sources both within and without the state of Indiana by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three (3). However, after a period of two (2) consecutive quarters of income growth and one (1) additional quarter (regardless of any income growth), the fraction shall be computed as follows:

(1) For all taxable years that begin within the first calendar year immediately following the period, the numerator of the fraction is the sum of the property factor plus the payroll factor plus one hundred thirty-three percent (133%) of the sales factor, and the denominator of the fraction is three and thirty-three hundredths (3.33).

(2) For all taxable years that begin within the second calendar year following the period, the numerator of the fraction is the property factor plus the payroll factor plus one hundred sixty-seven percent (167%) of the sales factor, and the denominator of the fraction is three and sixty-seven hundredths (3.67).

(3) For all taxable years beginning on or after January 1 of the third calendar year following the period, the numerator of the fraction is the property factor plus the payroll factor plus two hundred percent (200%) of the sales factor, and the denominator of the fraction is four (4).

For purposes of this subsection, income growth occurs when the state's nonfarm personal income for a calendar quarter increases in comparison with the state's nonfarm personal income for the immediately preceding quarter at an annualized compound rate of five percent (5%) or more, as determined by the budget agency based on current dollar figures provided by the Bureau of Economic Analysis of the United States Department of Commerce or its successor agency. The annualized compound rate shall be computed in accordance with the formula  $(1+N)^4-1$ , where N equals the percentage change in the state's current dollar nonfarm personal income from one (1) quarter to the next. As soon as possible after two (2) consecutive quarters of income growth, the budget agency shall advise the department of the

growth.

(c) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the taxable year. However, with respect to a foreign corporation, the denominator does not include the average value of real or tangible personal property owned or rented and used in a place that is outside the United States. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The average of property shall be determined by averaging the values at the beginning and ending of the taxable year, but the department may require the averaging of monthly values during the taxable year if reasonably required to reflect properly the average value of the taxpayer's property.

(d) The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the taxable year by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the taxable year. However, with respect to a foreign corporation, the denominator does not include compensation paid in a place that is outside the United States. Compensation is paid in this state if:

- (1) the individual's service is performed entirely within the state;
- (2) the individual's service is performed both within and without this state, but the service performed without this state is incidental to the individual's service within this state; or
- (3) some of the service is performed in this state and:
  - (A) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in this state; or
  - (B) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual is a resident of this state.

(e) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the taxable year, and the denominator of which is the total sales of the taxpayer everywhere during the taxable year. Sales include receipts from intangible property and receipts from the sale or exchange of intangible property. However, with respect to a foreign corporation, the denominator does not include sales made in a place that is outside the United States. Receipts from intangible personal property are derived from sources within Indiana if the receipts from the intangible personal property are attributable to Indiana under section 2.2 of this chapter. Sales of tangible personal property are in this state if:

- (1) the property is delivered or shipped to a purchaser, other than the United States government, within this state, regardless of the f.o.b. point or other conditions of the sale; or



(2) the property is shipped from an office, a store, a warehouse, a factory, or other place of storage in this state and:

(A) the purchaser is the United States government; or

(B) the taxpayer is not taxable in the state of the purchaser.

Gross receipts derived from commercial printing as described in IC 6-2.5-1-10 shall be treated as sales of tangible personal property for purposes of this chapter.

(f) Sales, other than receipts from intangible property covered by subsection (e) and sales of tangible personal property, are in this state if:

(1) the income-producing activity is performed in this state; or

(2) the income-producing activity is performed both within and without this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(g) Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in subsections (h) through (k).

(h)(1) Net rents and royalties from real property located in this state are allocable to this state.

(2) Net rents and royalties from tangible personal property are allocated to this state:

(i) if and to the extent that the property is utilized in this state; or

(ii) in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(3) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year, and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

(i)(1) Capital gains and losses from sales of real property located in this state are allocable to this state.

(2) Capital gains and losses from sales of tangible personal property are allocable to this state if:

(i) the property had a situs in this state at the time of the sale; or

(ii) the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

(3) Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

(j) Interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state.

(k)(1) Patent and copyright royalties are allocable to this state:

(i) if and to the extent that the patent or copyright is utilized by the taxpayer in this state; or

(ii) if and to the extent that the patent or copyright is utilized by the taxpayer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

(2) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(3) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

(l) If the allocation and apportionment provisions of this article do not fairly represent the taxpayer's income derived from sources within the state of Indiana, the taxpayer may petition for or the department may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(1) separate accounting;

(2) the exclusion of any one (1) or more of the factors;

(3) the inclusion of one (1) or more additional factors which will fairly represent the taxpayer's income derived from sources within the state of Indiana; or

(4) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

(m) In the case of two (2) or more organizations, trades, or businesses owned or controlled directly or indirectly by the same interests, the department shall distribute, apportion, or allocate the income derived from sources within the state of Indiana between and among those organizations, trades, or businesses in order to fairly reflect and report the income derived from sources within the state of Indiana by various taxpayers.

(n) For purposes of allocation and apportionment of income under this article, a taxpayer is taxable in another state if:

(1) in that state the taxpayer is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

(2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

(o) Notwithstanding subsections (l) and (m), the department may not, under any circumstances, require that income, deductions, and credits attributable to a taxpayer and another entity be reported in a combined income tax return for any taxable year, if the other entity is:

(1) a foreign corporation; or

(2) a corporation that is classified as a foreign operating

corporation for the taxable year by section 2.4 of this chapter.

(p) Notwithstanding subsections (l) and (m), the department may not require that income, deductions, and credits attributable to a taxpayer and another entity not described in subsection (o)(1) or (o)(2) be reported in a combined income tax return for any taxable year, unless the department is unable to fairly reflect the taxpayer's adjusted gross income for the taxable year through use of other powers granted to the department by subsections (l) and (m).

(q) Notwithstanding subsections (o) and (p), one (1) or more taxpayers may petition the department under subsection (l) for permission to file a combined income tax return for a taxable year. The petition to file a combined income tax return must be completed and filed with the department not more than thirty (30) days after the end of the taxpayer's taxable year.

(r) This subsection applies to a corporation that is a life insurance company (as defined in Section 816(a) of the Internal Revenue Code) or an insurance company that is subject to tax under Section 831 of the Internal Revenue Code. The corporation's adjusted gross income that is derived from sources within Indiana is determined by multiplying the corporation's adjusted gross income by a fraction:

- (1) the numerator of which is the direct premiums and annuity considerations received during the taxable year for insurance upon property or risks in the state; and
- (2) the denominator of which is the direct premiums and annuity considerations received during the taxable year for insurance upon property or risks everywhere.

The term "direct premiums and annuity considerations" means the gross premiums received from direct business as reported in the corporation's annual statement filed with the department of insurance. *(Formerly: Acts 1963(ss), c.32, s.204; Acts 1965, c.233, s.13; Acts 1971, P.L.64, SEC.4.) As amended by P.L.82-1983, SEC.4; P.L.16-1984, SEC.4; P.L.75-1985, SEC.4; P.L.78-1989, SEC.8; P.L.347-1989(ss), SEC.6; P.L.65-1991, SEC.1; P.L.71-1993, SEC.13; P.L.63-1997, SEC.1; P.L.192-2002(ss), SEC.71.*

## **IC 6-3-2-2.2**

### **Interest income, discounts, and receipts attributable to state**

Sec. 2.2. (a) Interest income and other receipts from assets in the nature of loans or installment sales contracts that are primarily secured by or deal with real or tangible personal property are attributable to this state if the security or sale property is located in Indiana.

(b) Interest income and other receipts from consumer loans not secured by real or tangible personal property are attributable to this state if the loan is made to a resident of Indiana, whether at a place of business, by a traveling loan officer, by mail, by telephone, or by other electronic means.

(c) Interest income and other receipts from commercial loans and installment obligations not secured by real or tangible personal property are attributable to this state if the proceeds of the loan are to be applied in Indiana. If it cannot be determined where the funds are to be applied, the income and receipts are attributable to the state in

which the business applied for the loan. As used in this section, "applied for" means initial inquiry (including customer assistance in preparing the loan application) or submission of a completed loan application, whichever occurs first.

(d) Interest income, merchant discount, and other receipts including service charges from financial institution credit card and travel and entertainment credit card receivables and credit card holders' fees are attributable to the state to which the card charges and fees are regularly billed.

(e) Receipts from the performance of fiduciary and other services are attributable to the state in which the benefits of the services are consumed. If the benefits are consumed in more than one (1) state, the receipts from those benefits are attributable to this state on a pro rata basis according to the portion of the benefits consumed in Indiana.

(f) Receipts from the issuance of traveler's checks, money orders, or United States savings bonds are attributable to the state in which the traveler's checks, money orders, or bonds are purchased.

(g) Receipts in the form of dividends from investments are attributable to this state if the taxpayer's commercial domicile is in Indiana.

*As added by P.L.347-1989(ss), SEC.7.*

### **IC 6-3-2-2.3a**

#### **Commercial printing contracts**

*Note: This version of section effective until 1-1-2003. See also following version of this section, effective 1-1-2003.*

Sec. 2.3. Notwithstanding any other provision of this article, with respect to a person, corporation, or partnership that has contracted with a commercial printer for printing:

- (1) the ownership or leasing by that entity of tangible or intangible property located at the Indiana premises of the commercial printer;
- (2) the sale by that entity of property of any kind produced at and shipped or distributed from the Indiana premises of the commercial printer;
- (3) the activities of any kind performed by or on behalf of that entity at the Indiana premises of the commercial printer; and
- (4) the activities performed by the commercial printer in Indiana for or on behalf of that entity;

shall not cause that entity to have adjusted gross income derived from sources within Indiana for purposes of the taxes imposed by this chapter and IC 6-3-8, unless that entity engages in other activities in Indiana away from the premises of the commercial printer that exceed the protection of 15 U.S.C. 381.

*As added by P.L.70-1993, SEC.6.*

### **IC 6-3-2-2.3b**

#### **In-state commercial printing for out-of-state customer**

*Note: This version of section effective 1-1-2003. See also preceding version of this section, effective until 1-1-2003.*

Sec. 2.3. Notwithstanding any other provision of this article, with

respect to a person, corporation, or partnership that has contracted with a commercial printer for printing:

- (1) the ownership or leasing by that entity of tangible or intangible property located at the Indiana premises of the commercial printer;
- (2) the sale by that entity of property of any kind produced at and shipped or distributed from the Indiana premises of the commercial printer;
- (3) the activities of any kind performed by or on behalf of that entity at the Indiana premises of the commercial printer; and
- (4) the activities performed by the commercial printer in Indiana for or on behalf of that entity;

shall not cause that entity to have adjusted gross income derived from sources within Indiana for purposes of the taxes imposed by this chapter, unless that entity engages in other activities in Indiana away from the premises of the commercial printer that exceed the protection of 15 U.S.C. 381.

*As added by P.L.70-1993, SEC.6. Amended by P.L.192-2002(ss), SEC.72.*

#### **IC 6-3-2-2.4**

##### **Foreign operating corporations; determination of percentage of business activity outside United States**

Sec. 2.4. (a) For purposes of section 2(o) of this chapter, a corporation is a foreign operating corporation for a particular taxable year if it has eighty percent (80%) or more of its total business activity occurring outside the United States during the taxable year.

(b) For purposes of determining the amount of a corporation's business activity that occurs within the United States, the department shall determine the sum of that corporation's United States property factor and its United States payroll factor and divide that sum by two (2). If the quotient exceeds two-tenths (0.2), then less than eighty percent (80%) of the corporation's business shall be considered to have occurred outside the United States. If the quotient equals or is less than two-tenths (0.2), then eighty percent (80%) or more of the corporation's business shall be considered to have occurred outside the United States. If a corporation's United States property factor or its United States payroll factor has a denominator of zero (0), then the sum of the two (2) factors shall be divided by one (1) and not by two (2).

(c) The United States property factor of a corporation is a fraction. The numerator of the fraction is the average value of the corporation's real and tangible personal property owned or rented and used in the United States during the taxable year, and the denominator of the fraction is the average value of all the corporation's real and tangible personal property owned or rented and used anywhere in the world during the taxable year. Property owned by the corporation shall be valued at its original cost. Property rented by the corporation shall be valued at eight (8) times the net annual rental rate. The corporation's net annual rental rate is the annual rental rate paid by the corporation less any annual rental rate received by the corporation from subrentals. The average value of property shall be determined by averaging the

values at the beginning and ending of the taxable year, but the department may require the averaging of monthly values during the taxable year if reasonably required to reflect properly the average value of the corporation's property.

(d) The United States payroll factor of a corporation is a fraction. The numerator of the fraction is the total compensation to individuals paid in the United States during the taxable year by the corporation, and the denominator of the fraction is the total compensation to individuals paid anywhere in the world during the taxable year by the corporation. Compensation to an individual is paid in the United States if:

- (1) the individual's service is performed entirely within the United States;
- (2) the individual's service is performed both within and outside the United States, but the service performed outside the United States is incidental to the individual's service within the United States; or
- (3) the individual is a resident of the United States, some of the service is performed in the United States, and:
  - (A) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the United States; or
  - (B) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is not in a jurisdiction that is outside the United States and that is where some part of the service is performed.

*As added by P.L. 75-1985, SEC.5.*

### **IC 6-3-2-2.5**

#### **Resident persons; net operating loss; adjusted gross income**

Sec. 2.5. (a) This section applies to a resident person, for a particular taxable year, if the taxpayer's adjusted gross income for that taxable year is reduced because of a deduction allowed under Section 172 of the Internal Revenue Code for a net operating loss. For purposes of section 1 of this chapter, the taxpayer's adjusted gross income, for the particular taxable year, is the remainder determined under STEP FOUR of the following formula:

STEP ONE: Determine the taxpayer's adjusted gross income, for the taxable year, as calculated without the deduction for net operating losses provided by Section 172 of the Internal Revenue Code.

STEP TWO: Determine, in the manner prescribed in subsection (b), the amount of the taxpayer's net operating losses that are deductible for the taxable year under Section 172 of the Internal Revenue Code, as adjusted to reflect the modifications required by IC 6-3-1-3.5.

STEP THREE: Enter the larger of zero (0) or the amount determined under STEP TWO.

STEP FOUR: Subtract the amount entered under STEP THREE from the amount determined under STEP ONE.

(b) For purposes of STEP TWO of subsection (a), the modifications

that are to be applied are those modifications required under IC 6-3-1-3.5 for the same taxable year during which each net operating loss was incurred. In addition, for purposes of STEP TWO of subsection (a), the following procedures apply:

- (1) The taxpayer's net operating loss for a particular taxable year shall be treated as a positive number.
- (2) A modification that is to be added to federal adjusted gross income or federal taxable income under IC 6-3-1-3.5 shall be treated as a negative number.
- (3) A modification that is to be subtracted from federal adjusted gross income or federal taxable income under IC 6-3-1-3.5 shall be treated as a positive number.

*As added by P.L.91-1987, SEC.3.*

### **IC 6-3-2-2.6a**

#### **Corporation or nonresident person; net operating loss; adjusted gross income**

*Note: This version of section effective until 1-1-2003. See also following version of this section, effective 1-1-2003.*

Sec. 2.6. (a) This section applies to a corporation or a nonresident person, for a particular taxable year, if the taxpayer's adjusted gross income for that taxable year is reduced because of a deduction allowed under Section 172 of the Internal Revenue Code for a net operating loss. For purposes of section 1 of this chapter, the taxpayer's adjusted gross income, for the particular taxable year, derived from sources within Indiana is the remainder determined under STEP FOUR of the following formula:

STEP ONE: Determine, in the manner prescribed in section 2 of this chapter, the taxpayer's adjusted gross income, for the taxable year, derived from sources within Indiana, as calculated without the deduction for net operating losses provided by Section 172 of the Internal Revenue Code.

STEP TWO: Determine, in the manner prescribed in subsection (b), the amount of the taxpayer's net operating losses that are deductible for the taxable year under Section 172 of the Internal Revenue Code, as adjusted to reflect the modifications required by IC 6-3-1-3.5, and that are derived from sources within Indiana.

STEP THREE: Enter the larger of zero (0) or the amount determined under STEP TWO.

STEP FOUR: Subtract the amount entered under STEP THREE from the amount determined under STEP ONE.

(b) For purposes of STEP TWO of subsection (a), the modifications that are to be applied are those modifications required under IC 6-3-1-3.5 for the same taxable year during which each net operating loss was incurred. In addition, for purposes of STEP TWO of subsection (a), the amount of a taxpayer's net operating losses that are derived from sources within Indiana shall be determined in the same manner that the amount of the taxpayer's income derived from sources within Indiana is determined, under section 2 of this chapter, for the same taxable year during which each loss was incurred. Also, for purposes of STEP TWO of subsection (a), the following procedures

apply:

- (1) The taxpayer's net operating loss for a particular taxable year shall be treated as a positive number.
- (2) A modification that is to be added to federal adjusted gross income or federal taxable income under IC 6-3-1-3.5 shall be treated as a negative number.
- (3) A modification that is to be subtracted from federal adjusted gross income or federal taxable income under IC 6-3-1-3.5 shall be treated as a positive number.

*As added by P.L.91-1987, SEC.4.*

### **IC 6-3-2-2.6b**

#### **Net operating losses**

*Note: This version of section effective 1-1-2003. See also preceding version of this section, effective until 1-1-2003.*

Sec. 2.6. (a) This section applies to a corporation or a nonresident person, for a particular taxable year, if the taxpayer's adjusted gross income for that taxable year is reduced because of a deduction allowed under Section 172 of the Internal Revenue Code for a net operating loss. For purposes of section 1 of this chapter, the taxpayer's adjusted gross income, for the particular taxable year, derived from sources within Indiana is the remainder determined under STEP FOUR of the following formula:

STEP ONE: Determine, in the manner prescribed in section 2 of this chapter, the taxpayer's adjusted gross income, for the taxable year, derived from sources within Indiana, as calculated without the deduction for net operating losses provided by Section 172 of the Internal Revenue Code.

STEP TWO: Determine, in the manner prescribed in subsection (b), the amount of the taxpayer's net operating losses that are deductible for the taxable year under Section 172 of the Internal Revenue Code, as adjusted to reflect the modifications required by IC 6-3-1-3.5, and that are derived from sources within Indiana.

STEP THREE: Enter the larger of zero (0) or the amount determined under STEP TWO.

STEP FOUR: Subtract the amount entered under STEP THREE from the amount determined under STEP ONE.

(b) For purposes of STEP TWO of subsection (a), the modifications that are to be applied are those modifications required under IC 6-3-1-3.5 for the same taxable year during which each net operating loss was incurred. In addition, for purposes of STEP TWO of subsection (a), the amount of a taxpayer's net operating losses that are derived from sources within Indiana shall be determined in the same manner that the amount of the taxpayer's income derived from sources within Indiana is determined, under section 2 of this chapter, for the same taxable year during which each loss was incurred. Also, for purposes of STEP TWO of subsection (a), the following procedures apply:

- (1) The taxpayer's net operating loss for a particular taxable year shall be treated as a positive number.
- (2) A modification that is to be added to federal adjusted gross



income or federal taxable income under IC 6-3-1-3.5 shall be treated as a negative number.

(3) A modification that is to be subtracted from federal adjusted gross income or federal taxable income under IC 6-3-1-3.5 shall be treated as a positive number.

(4) A net operating loss under this section shall be considered even though in the year the taxpayer incurred the loss the taxpayer was not subject to the tax imposed under section 1 of this chapter because the taxpayer was:

(A) a life insurance company (as defined in Section 816(a) of the Internal Revenue Code); or

(B) an insurance company subject to tax under Section 831 of the Internal Revenue Code.

*As added by P.L.91-1987, SEC.4. Amended by P.L.192-2002(ss), SEC.73.*

### **IC 6-3-2-2.7**

#### **Team members; Indiana income; rules**

Sec. 2.7. (a) As used in this section:

(1) "Bonus for services rendered as a team member" includes:

(A) a bonus earned as a result of play during the season, such as a performance bonus, including a bonus paid for a championship, playoff, or bowl game played by a team, or for selection to an all-star league or other honorary position; and

(B) a bonus paid for signing a contract, unless all of the following conditions are met:

(i) The payment of the signing bonus is not conditional upon the signee playing any games for the team, performing any subsequent services for the team, or making the team.

(ii) The signing bonus is payable separately from the salary and any other compensation.

(iii) The signing bonus is nonrefundable.

(2) "Indiana duty days" means the number of total duty days spent by a team member within Indiana rendering a service for the team in any manner during the taxable year, except:

(A) travel days spent in Indiana that do not involve either a game, practice, team meeting, promotional caravan, or other similar team event; and

(B) those days spent in Indiana for which a team member is on the disabled list.

(3) "Team" includes a professional baseball, basketball, football, hockey, or soccer team that played games in Indiana or that had services rendered in Indiana by a team member.

(4) "Team member" includes employees who are active players, players on the disabled list, and any other individuals required to travel and who do travel with and perform services on behalf of a team on a regular basis. The term includes coaches, managers, and trainers.

(5) "Total duty days" means all days during the taxable year that a team member renders a service for the team, beginning with the team's official preseason training period through the last game in

which the team competes or is scheduled to compete. The term includes days on which a team member renders a service for the team on a date that does not fall within this period. The term includes:

- (A) game days, practice days, days spent at team meetings, days spent with a promotional caravan and at preseason training camps, and days served with the team through all postseason games in which the team competes or is scheduled to compete;
- (B) days spent conducting training and rehabilitation activities, but only if the service is conducted at the facilities of the team;
- (C) travel days that do not involve either a game, practice, team meeting, promotional caravan, or other similar team event;
- (D) days spent participating in instructional leagues and all-star or pro bowl games; and
- (E) days for which a team member is on the disabled list.

Total duty days for an individual who joins a team during the season begin on the day the individual joins the team, and, for an individual who leaves a team, end on the day the individual leaves the team. When an individual changes teams during a taxable year, a separate duty day calculation must be made for the period the individual was with each team. Total duty days do not include those days for which a team member is not compensated and is not rendering a service for the team in any manner, including days when the team member has been suspended without pay and prohibited from performing any services for the team.

(6) "Total income" means the total compensation received during the taxable year for services rendered:

- (A) from the beginning of the official preseason training period through the last game in which the team competes or is scheduled to compete during that taxable year; and
- (B) on a date during the taxable year that does not fall within the period described in clause (A), such as participation in instructional leagues, an all-star or pro bowl game, or with a promotional caravan.

The term includes salaries, wages, bonuses, and any other type of compensation paid during the taxable year to a team member for services rendered in that year. The term does not include strike benefits, severance pay, termination pay, contract or option year buy-out payments, expansion or relocation payments, or any other payments not related to services rendered to the team.

(b) For purposes of IC 6-3, Indiana income is the individual's total income during the taxable year multiplied by the following fraction:

- (1) The numerator of the fraction is the individual's Indiana duty days for the taxable year.
- (2) The denominator of the fraction is the individual's total duty days for the taxable year.

(c) It is presumed that this section results in a fair and equitable apportionment of the team member's compensation. However, if the department demonstrates that the method provided under this section

does not fairly and equitably apportion a team member's compensation, the department may require the team member to apportion the team member's compensation under another method that the department prescribes. The prescribed method must result in a fair and equitable apportionment. A team member may submit a proposal for an alternative method to apportion the team member's compensation if the team member demonstrates that the method provided under this section does not fairly and equitably apportion the team member's compensation. If approved by the department, the proposed method must be fully explained in the team member's nonresident personal income tax return.

(d) The department may adopt rules under IC 4-22-2 to establish either of the following methods of simplifying return filing for team members of a team, if the team is not based in Indiana:

(1) A withholding system requiring a team to withhold adjusted gross income tax for each team member and to remit the withheld taxes to Indiana on an annual basis. The department may require each team to submit information for each team member regarding total income, Indiana income subject to tax under this section, and the amount of tax withheld. Remittance of the withholding and submission of the required information satisfies the team member's tax liability and return filing responsibilities under this article. A team that is required to withhold and remit shall provide all participating team members with a Form W-2 evidencing the amount of tax withheld and remitted to Indiana. Even though a team is required to withhold and remit, a team member may file an individual income tax return to claim a refund if the amount remitted exceeds the amount otherwise owed using the methodology under this section. However, if the team member files an individual income tax return to claim such a refund, the team member is required to notify the team member's state of residence of the filing.

(2) A composite return method that permits the filing of a composite tax return by the team on behalf of each team member. Other department rules concerning composite returns apply to the extent these rules are not inconsistent with this subsection. The team must obtain approval from the department before filing a composite return. The team must obtain written authorization each taxable year from each team member who elects to participate in the composite return. The participating team members must acknowledge through their elections that the composite return constitutes an irrevocable filing and that they may not file an individual income tax return in Indiana. The team must maintain a power of attorney from each participating team member that authorizes the team to represent them in a protest or other appeal. The team and participating team members must agree that the team is responsible for any deficiencies, including penalties. The team shall withhold tax from each participating team member's compensation and remit it to the state of Indiana. The return must contain information for each participating team member regarding total income, Indiana income subject to tax

using the methodology under this section, and the amount of tax due. Filing of the return and remittance of the tax satisfy the participating team member's tax liability and return filing responsibilities under IC 6-3-4-1.

If the method under subdivision (1) or the method under subdivision (2) is required, a team member's Indiana adjusted gross income may not be reduced by using a deduction, an exemption, or an exclusion. For a team member to participate in either method, a team member's compensation from the team must be the only source of income attributable to Indiana. If a team member leaves the team during a taxable year, the team remains responsible for remitting the appropriate tax and may either collect the tax paid from the team member or absorb the cost itself.

*As added by P.L.63-1997, SEC.2.*

### **IC 6-3-2-2.8a**

#### **Exempt organizations**

*Note: This version of section effective until 1-1-2003. See also following version of this section, effective 1-1-2003.*

Sec. 2.8. Notwithstanding any provision of IC 6-3-1 through IC 6-3-7, there shall be no tax on the adjusted gross income of the following:

(1) Any organization described in Section 501(a) of the Internal Revenue Code, except that any income of such organization which is subject to income tax under the Internal Revenue Code shall be subject to the tax under IC 6-3-1 through IC 6-3-7.

(2) Any corporation which is exempt from income tax under Section 1363 of the Internal Revenue Code and which complies with the requirements of IC 6-3-4-13. However, income of a corporation described under this subdivision that is subject to income tax under the Internal Revenue Code is subject to the tax under IC 6-3-1 through IC 6-3-7. A corporation will not lose its exemption under this section because it fails to comply with IC 6-3-4-13 but it will be subject to the penalties provided by IC 6-8.1-10.

(3) Banks and trust companies, national banking associations, savings banks, building and loan associations, and savings and loan associations.

(4) Insurance companies subject to tax under IC 27-1-18-2.

(5) International banking facilities (as defined in Regulation D of the Board of Governors of the Federal Reserve System (12 CFR 204)).

*As added by P.L.47-1984, SEC.5. Amended by P.L.42-1993, SEC.3; P.L.18-1994, SEC.8.*

### **IC 6-3-2-2.8b**

#### **Exemption; nonprofit entities; Subchapter S corporations; financial institutions; insurance companies; international banking facilities**

*Note: This version of section effective 1-1-2003. See also preceding version of this section, effective until 1-1-2003.*

Sec. 2.8. Notwithstanding any provision of IC 6-3-1 through IC 6-3-7, there shall be no tax on the adjusted gross income of the following:

(1) Any organization described in Section 501(a) of the Internal Revenue Code, except that any income of such organization which is subject to income tax under the Internal Revenue Code shall be subject to the tax under IC 6-3-1 through IC 6-3-7.

(2) Any corporation which is exempt from income tax under Section 1363 of the Internal Revenue Code and which complies with the requirements of IC 6-3-4-13. However, income of a corporation described under this subdivision that is subject to income tax under the Internal Revenue Code is subject to the tax under IC 6-3-1 through IC 6-3-7. A corporation will not lose its exemption under this section because it fails to comply with IC 6-3-4-13 but it will be subject to the penalties provided by IC 6-8.1-10.

(3) Banks and trust companies, national banking associations, savings banks, building and loan associations, and savings and loan associations.

(4) Insurance companies subject to tax under IC 27-1-18-2, including a domestic insurance company that elects to be taxed under IC 27-1-18-2.

(5) International banking facilities (as defined in Regulation D of the Board of Governors of the Federal Reserve System (12 CFR 204)).

*As added by P.L.47-1984, SEC.5. Amended by P.L.42-1993, SEC.3; P.L.18-1994, SEC.8; P.L.192-2002(ss), SEC.74.*

### **IC 6-3-2-2.9**

#### **Repealed**

*(Repealed by P.L.47-1984, SEC.7(c).)*

### **IC 6-3-2-3**

#### **Repealed**

*(Repealed, as amended by P.L.79-1983, SEC.2, and as amended by P.L.82-1983, SEC.5, by P.L.47-1984, SEC.7(b).)*

### **IC 6-3-2-3.1a**

#### **Income of exempt organization derived from unrelated trade or business; application of section**

*Note: This version of section effective until 1-1-2003. See also following version of this section, effective 1-1-2003.*

Sec. 3.1. (a) Except as otherwise provided in subsection (b), income is not exempt from the adjusted gross income tax, or the supplemental net income tax, under section 2.8(1) of this chapter if the income is derived by the exempt organization from an unrelated trade or business, as defined in Section 513 of the Internal Revenue Code.

(b) This section does not apply to:

- (1) the United States government;
- (2) an agency or instrumentality of the United States government;
- (3) this state;

- (4) a state agency, as defined in IC 34-6-2-141;
- (5) a political subdivision, as defined in IC 34-6-2-110; or
- (6) a county solid waste management district or a joint solid waste management district established under IC 13-21 or IC 13-9.5-2 (before its repeal).

*As added by Acts 1978, P.L.32, SEC.3. Amended by P.L.25-1991, SEC.4; P.L.1-1994, SEC.28; P.L.1-1996, SEC.46; P.L.1-1998, SEC.78.*

### **IC 6-3-2-3.1b**

#### **Taxation; nonprofit entities; unrelated business income**

*Note: This version of section effective 1-1-2003. See also preceding version of this section, effective until 1-1-2003.*

Sec. 3.1. (a) Except as otherwise provided in subsection (b), income is not exempt from the adjusted gross income tax under section 2.8(1) of this chapter if the income is derived by the exempt organization from an unrelated trade or business, as defined in Section 513 of the Internal Revenue Code.

(b) This section does not apply to:

- (1) the United States government;
- (2) an agency or instrumentality of the United States government;
- (3) this state;
- (4) a state agency, as defined in IC 34-6-2-141;
- (5) a political subdivision, as defined in IC 34-6-2-110; or
- (6) a county solid waste management district or a joint solid waste management district established under IC 13-21 or IC 13-9.5-2 (before its repeal).

*As added by Acts 1978, P.L.32, SEC.3. Amended by P.L.25-1991, SEC.4; P.L.1-1994, SEC.28; P.L.1-1996, SEC.46; P.L.1-1998, SEC.78; P.L.192-2002(ss), SEC.75.*

### **IC 6-3-2-3.5a**

#### **Fares collected for public transportation services; exemption**

*Note: This version of section effective until 1-1-2003. See also following version of this section, effective 1-1-2003.*

Sec. 3.5. All fares collected for public transportation services are exempt from the income taxes imposed by this article if the fares are exempt from the gross income tax under IC 6-2.1-3-27.

*(Formerly: Acts 1975, P.L.58, SEC.3.) As amended by P.L.19-1986, SEC.14.*

### **IC 6-3-2-3.5b**

#### **Exemption; fares for public transportation services**

*Note: This version of section effective 1-1-2003. See also preceding version of this section, effective until 1-1-2003.*

Sec. 3.5. (a) For purposes of this section, "public transportation services" means the transportation of individuals for hire.

(b) All fares collected for public transportation services are exempt from the income taxes imposed by this article if the fares are received by a:

- (1) public transportation corporation established under IC 36-9-4;
- (2) public transit department established by ordinance under

IC 36; or

(3) lessee common carrier that provides public transportation services under IC 36.

(c) Fares collected for public transportation services by a private corporation are exempt from income taxes imposed by this article if during the tax year at least eighty percent (80%) of the corporation's total regularly scheduled bus passenger vehicle route miles are within the corporation's designated regional service area. A private corporation's designated regional service area may not be greater than:

(1) the county that the private corporation designates as its principal place of business; and

(2) all counties contiguous to the county designated by the private corporation as its principal place of business.

A private corporation may choose a smaller area as its regional service area.

*(Formerly: Acts 1975, P.L.58, SEC.3.) As amended by P.L.19-1986, SEC.14; P.L.192-2002(ss), SEC.76.*

### **IC 6-3-2-3.7**

#### **Remainder of federal civil service annuity minus certain retirement benefits; deduction**

Sec. 3.7. Each taxable year, an individual is entitled to an adjusted gross income tax deduction equal to the remainder of:

(1) the first two thousand dollars (\$2,000) which is received by the individual during the taxable year from a federal civil service annuity, and which is included in adjusted gross income under Section 62 of the Internal Revenue Code; minus

(2) the total amount of social security benefits and railroad retirement benefits received by the individual during the taxable year.

However, the individual is only entitled to the deduction provided by this section if the individual is at least sixty-two (62) years of age before the end of the taxable year.

*As added by Acts 1977, P.L.79, SEC.1. Amended by Acts 1980, P.L.54, SEC.2; P.L.76-1985, SEC.1.*

### **IC 6-3-2-4**

#### **Military service deduction; retirement income or survivor's benefits; age limit of 60**

Sec. 4. Each taxable year, an individual, or the individual's surviving spouse, is entitled to an adjusted gross income tax deduction for the first two thousand dollars (\$2,000) of income, including retirement or survivor's benefits, received during the taxable year by the individual, or the individual's surviving spouse, for the individual's service in an active or reserve component of the armed forces of the United States, including the army, navy, air force, coast guard, marine corps, merchant marine, Indiana army national guard, or Indiana air national guard. However, a person who is less than sixty (60) years of age on the last day of the person's taxable year, is not, for that taxable year, entitled to a deduction under this section for retirement or survivor's benefits.

*As added by Acts 1977, P.L.78, SEC.3. Amended by P.L.76-1985, SEC.2.*

### **IC 6-3-2-5**

#### **Insulation; installation; deduction; amount; filing of proof**

Sec. 5. (a) For purposes of this section, "insulation" means any material, commonly used in the building industry, which is installed for the sole purpose of retarding the passage of heat energy into or out of a building.

(b) A resident individual taxpayer is entitled to a deduction from his adjusted gross income for a particular taxable year if, during that taxable year, he installs in his residence new, but not replacement, insulation, weather stripping, double pane windows, storm doors, or storm windows. However, a taxpayer does not qualify for this deduction unless the part of his residence in which he makes the installation was constructed at least three (3) years before the taxable year for which the deduction is claimed.

(c) The amount of the deduction to which a taxpayer is entitled in a particular taxable year is the lesser of:

- (1) the amount the taxpayer pays for labor and materials for the installation that is made during the taxable year; or
- (2) one thousand dollars (\$1,000).

(d) To obtain the deduction provided by this section, the taxpayer must file with the department proof of his costs for the installation and a list of the persons or corporations who supplied labor or materials for the installation.

*As added by Acts 1978, P.L.37, SEC.2.*

### **IC 6-3-2-5.5**

#### **Repealed**

*(Repealed by Acts 1980, P.L.54, SEC.9.)*

### **IC 6-3-2-6a**

#### **Dwelling rental deduction; limitations**

*Note: This version of section effective until 1-1-2003. See also following version of this section, effective 1-1-2003.*

Sec. 6. (a) Each taxable year, an individual who rents a dwelling for use as his principal place of residence may deduct from his adjusted gross income, as defined in IC 6-3-1-3.5(a), the lesser of:

- (1) the amount of rent paid by him with respect to the dwelling during the taxable year; or
- (2) two thousand dollars (\$2,000).

(b) Notwithstanding subsection (a), a husband and wife filing a joint adjusted gross income tax return for a particular taxable year may not claim a deduction under this section of more than two thousand dollars (\$2,000).

(c) The deduction provided by this section does not apply to an individual who rents a dwelling that is exempt from Indiana property tax.

(d) For purposes of this section, a "dwelling" includes a single family dwelling and unit of a multi-family dwelling.



*As added by Acts 1979, P.L.70, SEC.1. Amended by P.L.14-1999, SEC.1.*

### **IC 6-3-2-6b**

#### **Deduction; rent payments**

*Note: This version of section effective 1-1-2003. See also preceding version of this section, effective until 1-1-2003.*

Sec. 6. (a) Each taxable year, an individual who rents a dwelling for use as the individual's principal place of residence may deduct from the individual's adjusted gross income (as defined in IC 6-3-1-3.5(a)), the lesser of:

- (1) the amount of rent paid by the individual with respect to the dwelling during the taxable year; or
- (2) two thousand five hundred dollars (\$2,500).

(b) Notwithstanding subsection (a), a husband and wife filing a joint adjusted gross income tax return for a particular taxable year may not claim a deduction under this section of more than two thousand five hundred dollars (\$2,500).

(c) The deduction provided by this section does not apply to an individual who rents a dwelling that is exempt from Indiana property tax.

(d) For purposes of this section, a "dwelling" includes a single family dwelling and unit of a multi-family dwelling.

*As added by Acts 1979, P.L.70, SEC.1. Amended by P.L.14-1999, SEC.1; P.L.192-2002(ss), SEC.77.*

### **IC 6-3-2-7**

#### **Repealed**

*(Repealed by P.L.9-1986, SEC.10.)*

### **IC 6-3-2-8**

#### **Enterprise zone adjusted gross income deduction to qualified employees**

Sec. 8. (a) For purposes of this section, "qualified employee" means an individual who is employed by a taxpayer, an employer exempt from adjusted gross income tax (IC 6-3-1 through IC 6-3-7) under IC 6-3-2-2.8(3), IC 6-3-2-2.8(4), or IC 6-3-2-2.8(5), a nonprofit entity, the state, a political subdivision of the state, or the United States government and who:

- (1) has the employee's principal place of residence in the enterprise zone in which the employee is employed;
- (2) performs services for the taxpayer, the employer, the nonprofit entity, the state, the political subdivision, or the United States government, ninety percent (90%) of which are directly related to:
  - (A) the conduct of the taxpayer's or employer's trade or business; or
  - (B) the activities of the nonprofit entity, the state, the political subdivision, or the United States government;that is located in an enterprise zone; and
- (3) performs at least fifty percent (50%) of the employee's service for the taxpayer or employer during the taxable year in the

enterprise zone.

(b) Except as provided in subsection (c), a qualified employee is entitled to a deduction from his adjusted gross income in each taxable year in the amount of the lesser of:

(1) one-half ( $1/2$ ) of his adjusted gross income for the taxable year that he earns as a qualified employee; or

(2) seven thousand five hundred dollars (\$7,500).

(c) No qualified employee is entitled to a deduction under this section for a taxable year that begins after the termination of the enterprise zone in which he resides.

*As added by P.L.23-1983, SEC.11. Amended by P.L.9-1986, SEC.5; P.L.289-2001, SEC.12.*

### **IC 6-3-2-9**

#### **Disability retirement; deduction; amount**

Sec. 9. (a) An individual who:

(1) retired on disability before the end of the taxable year; and

(2) was permanently and totally disabled, as determined under subsection (c), at the time of retirement;

is entitled to a deduction from the individual's adjusted gross income for that taxable year in the amount determined under subsection (b).

(b) The deduction provided by subsection (a) is the amount determined using the following STEPS:

STEP ONE: Determine the amount received by the individual during the taxable year through an accident and health plan for personal injuries or sickness to the extent that:

(A) these amounts are attributable to contributions by the individual's employer that were not includable in the individual's gross income or are paid by the employer; and

(B) these amounts constitute wages or payments in lieu of wages for a period during which the employee is absent from work because of permanent and total disability.

STEP TWO: Determine for each week of the taxable year the amount by which each weekly payment referred to in STEP ONE exceeds one hundred dollars (\$100), then add these amounts.

STEP THREE: Determine the amount by which the individual's federal adjusted gross income for the taxable year, as defined by Section 62 of the Internal Revenue Code, exceeds fifteen thousand dollars (\$15,000).

STEP FOUR: Subtract from the amount determined in STEP ONE the amount determined in STEP TWO and the amount determined in STEP THREE.

(c) For purposes of this section, an individual is permanently and totally disabled if the individual is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than twelve (12) months. An individual may not be considered to be permanently and totally disabled unless he furnishes proof of the existence of the disability as the department of revenue may require.

*As added by P.L.76-1985, SEC.3. Amended by P.L.47-2001, SEC.1.*

### **IC 6-3-2-10**

#### **Unemployment compensation; deduction**

Sec. 10. (a) An individual who received unemployment compensation, as defined in subsection (c), during the taxable year is entitled to a deduction from the individual's adjusted gross income for that taxable year in the amount determined using the following formula:

STEP ONE: Determine the difference between:

(A) the federal adjusted gross income of the individual (or the individual and the individual's spouse, in the case of a joint return), as defined in Section 62 of the Internal Revenue Code; minus

(B) the base amount as defined in subsection (b).

STEP TWO: Determine the greater of zero (0) or the difference between:

(A) the individual's unemployment compensation for the taxable year; minus

(B) one-half (1/2) of the amount determined under STEP ONE.

(b) As used in this section, "base amount" means:

(1) twelve thousand dollars (\$12,000) in all cases not covered by subdivision (2) or (3);

(2) eighteen thousand dollars (\$18,000) in the case of an individual who files a joint return for the taxable year; or

(3) zero (0), in the case of an individual who:

(A) is married at the close of the taxable year, as determined under Section 143 of the Internal Revenue Code;

(B) does not file a joint return for the taxable year; and

(C) does not live apart from the individual's spouse at all times during the taxable year.

(c) As used in this section, "unemployment compensation" means the amount of unemployment compensation that is included in the individual's federal gross income under Section 85 of the Internal Revenue Code.

*As added by P.L.2-1987, SEC.19. Amended by P.L.5-1988, SEC.46.*

### **IC 6-3-2-11**

#### **Deductions from adjusted gross income; federal employee paid leave**

Sec. 11. (a) An individual is entitled to a deduction from the individual's adjusted gross income for the taxable year if the individual:

(1) is an employee of the federal government during the taxable year and the year preceding the taxable year;

(2) has used paid leave from employment as an employee of the federal government during the year preceding the taxable year; and

(3) is entitled to an itemized deduction under the Internal Revenue Code for the taxable year because the individual bought back the leave used by the individual during the year preceding the taxable year.

(b) The amount of the deduction for a taxable year may not exceed

the lesser of:

- (1) the individual's itemized deduction that is allowed under the Internal Revenue Code for the taxable year; or
- (2) the individual's adjusted gross income for the taxable year.

*As added by P.L.91-1987, SEC.5.*

### **IC 6-3-2-12**

#### **Foreign source dividends; deduction; computation**

Sec. 12. (a) As used in this section, the term "foreign source dividend" means a dividend from a foreign corporation. The term includes any amount that a taxpayer is required to include in its gross income for a taxable year under Section 951 of the Internal Revenue Code, but the term does not include any amount that is treated as a dividend under Section 78 of the Internal Revenue Code.

(b) A corporation that includes any foreign source dividend in its adjusted gross income for a taxable year is entitled to a deduction from that adjusted gross income. The amount of the deduction equals the product of:

- (1) the amount of the foreign source dividend included in the corporation's adjusted gross income for the taxable year; multiplied by
- (2) the percentage prescribed in subsection (c), (d), or (e), as the case may be.

(c) The percentage referred to in subsection (b)(2) is one hundred percent (100%) if the corporation that includes the foreign source dividend in its adjusted gross income owns stock possessing at least eighty percent (80%) of the total combined voting power of all classes of stock of the foreign corporation from which the dividend is derived.

(d) The percentage referred to in subsection (b)(2) is eighty-five percent (85%) if the corporation that includes the foreign source dividend in its adjusted gross income owns stock possessing at least fifty percent (50%) but less than eighty percent (80%) of the total combined voting power of all classes of stock of the foreign corporation from which the dividend is derived.

(e) The percentage referred to in subsection (b)(2) is fifty percent (50%) if the corporation that includes the foreign source dividend in its adjusted gross income owns stock possessing less than fifty percent (50%) of the total combined voting power of all classes of stock of the foreign corporation from which the dividend is derived.

*As added by P.L.383-1987(ss), SEC.4.*

### **IC 6-3-2-13**

#### **Export income; maritime opportunity districts**

Sec. 13. (a) As used in this section, "export income" means the gross receipts from the sale, transfer, or exchange of tangible personal property destined for international markets that is:

- (1) manufactured at a plant located within a maritime opportunity district established under IC 6-1.1-40; and
- (2) shipped through a port operated by the state.

(b) As used in this section, "export sales ratio" means the quotient of:

- (1) the taxpayer's export income; divided by
- (2) the taxpayer's gross receipts from the sale, transfer, or exchange of tangible personal property, regardless of its destination.

(c) As used in this section, "taxpayer" means a person or corporation that has export income.

(d) The Indiana port commission established by IC 8-10-1 shall notify the department when a maritime opportunity district is established under IC 6-1.1-40. The notice must include:

- (1) the resolution passed by the commission to establish the district; and
- (2) a list of all taxpayers located in the district.

(e) The port commission shall also notify the department of any subsequent changes in the list of taxpayers located in the district.

(f) A taxpayer is entitled to a deduction from the taxpayer's adjusted gross income in an amount equal to the lesser of:

- (1) the taxpayer's adjusted gross income; or
- (2) the product of the export sales ratio multiplied by the percentage set forth in subsection (g).

(g) The percentage to be used in determining the amount a taxpayer is entitled to deduct under this section depends upon the number of years that the taxpayer could have taken a deduction under this section.

The percentage to be used in subsection (f) is as follows:

YEAR OF DEDUCTION	PERCENTAGE
1st through 4th	100%
5th	80%
6th	60%
7th	40%
8th	20%
9th and thereafter	0%

(h) The department shall determine for each taxpayer claiming a deduction under this section, the taxpayer's export sales ratio for purposes of IC 6-1.1-40. The department shall certify the amount of the ratio to the department of local government finance.

*As added by P.L.62-1988, SEC.2. Amended by P.L.90-2002, SEC.288.*

### **IC 6-3-2-14a**

#### **Partial exemption; lottery winnings**

*Note: This version of section effective until 1-1-2003. See also following repeal of this section, effective 1-1-2003.*

Sec. 14. (a) The first one thousand two hundred dollars (\$1,200) of prize money received from a winning lottery ticket purchased under IC 4-30 is exempt from the adjusted gross income tax and supplemental net income tax imposed by this article. If the amount of prize money received from a winning lottery ticket exceeds one thousand two hundred dollars (\$1,200), the amount of the excess is subject to the adjusted gross income tax and supplemental net income tax imposed by this article.

(b) This section expires January 1, 2003.

*As added by P.L.341-1989(ss), SEC.9. Amended by P.L.192-2002(ss), SEC.78.*

### **IC 6-3-2-14b**

#### **Repealed**

*(Repealed by P.L.192-2002(ss), SEC.191.)*

*Note: This repeal of section effective 1-1-2003. See also preceding version of this section, effective until 1-1-2003.*

### **IC 6-3-2-14.5**

#### **Partial exemption; lottery winnings**

*Effective 1-1-2003.*

Sec. 14.5. The first one thousand two hundred dollars (\$1,200) of prize money received from a winning lottery ticket purchased under IC 4-30 is exempt from the adjusted gross income tax imposed by this article. If the amount of prize money received from a winning lottery ticket exceeds one thousand two hundred dollars (\$1,200), the amount of the excess is subject to the adjusted gross income tax imposed by this article.

*As added by P.L.192-2002(ss), SEC.79.*

### **IC 6-3-2-15**

#### **Repealed**

*(Repealed by P.L.1-1990, SEC.76.)*

### **IC 6-3-2-16**

#### **Transactions between taxable entity and unitary taxpayer subject to IC 6-5.5**

Sec. 16. If an entity is subject to taxation under this article and is a member of a unitary group of which a taxpayer subject to taxation under IC 6-5.5 is a member, all income and deductions attributable to transactions between the entity and the unitary taxpayer shall be eliminated in determining the amount of tax imposed under this article. This section does not prohibit the elimination of income and deductions between two (2) or more entities that are not members of a unitary group.

*As added by P.L.1-1990, SEC.77.*

### **IC 6-3-2-17**

#### **Rewards for information to assist law enforcement officials; exemption**

Sec. 17. A reward received by an individual is exempt from taxation under IC 6-3-1 through IC 6-3-7, in an amount not to exceed one thousand dollars (\$1,000), if:

- (1) the reward is for information provided to a law enforcement official or agency, or to a not-for-profit corporation whose exclusive purpose is to assist law enforcement officials or agencies;
- (2) the information that is provided assists in the arrest, indictment, or the filing of charges against a person; and
- (3) the individual is not:
  - (A) compensated for investigating crimes or accidents (including an employee of, or an individual under contract

- with, a law enforcement agency);
- (B) the person convicted of the crime; or
- (C) the victim of the crime.

*As added by P.L.1-1990, SEC.78.*

### **IC 6-3-2-18**

#### **Employee medical care savings accounts**

Sec. 18. (a) As used in this section, "eligible medical expense" has the meaning set forth in IC 6-8-11-3.

(b) As used in this section, "medical care savings account" has the meaning set forth in IC 6-8-11-6.

(c) Except as provided in subsection (g), the amount of money deposited by an employer in a medical care savings account established for an employee under IC 6-8-11 is exempt from taxation under IC 6-3-1 through IC 6-3-7 as income of the employee in the taxable year in which the money is deposited in the account.

(d) Except as provided in subsection (g), the amount of money that is:

(1) withdrawn from a medical care savings account established for an employee under IC 6-8-11; and

(2) either:

(A) used by the administrator of the account for a purpose set forth in IC 6-8-11-13; or

(B) used under IC 6-8-11-13 to reimburse an employee for eligible medical expenses that the employee has incurred and paid for medical care for the employee or a dependent of the employee;

is exempt from taxation under IC 6-3-1 through IC 6-3-7 as income of the employee.

(e) Except as provided in IC 6-8-11-11, in each taxable year, the amount of money that is:

(1) withdrawn by an employee from a medical care savings account established under IC 6-8-11; and

(2) used for a purpose other than the purposes set forth in IC 6-8-11-13;

is income to the employee that is subject to taxation under IC 6-3-1 through IC 6-3-7.

(f) If an employee withdraws money from the employee's medical care savings account under the circumstances set forth in IC 6-8-11-17(c), the interest earned on the balance in the account during the full tax year in which the withdrawal is made is subject to taxation under IC 6-3-1 through IC 6-3-7 as income of the employee.

(g) A taxpayer that excluded or deducted an amount deposited into a medical care savings account from adjusted gross income under:

(1) section 106 of the Internal Revenue Code;

(2) section 220 of the Internal Revenue Code; or

(3) any other section of the Internal Revenue Code;

is not eligible for an additional exemption from adjusted gross income under this section.

*As added by P.L.92-1995, SEC.1 and P.L.93-1995, SEC.1. Amended by P.L.60-1997, SEC.3.*

### **IC 6-3-2-19**

#### **Distributions for higher education; exemptions**

Sec. 19. (a) As used in this section, "account beneficiary" has the meaning set forth in IC 21-9-2-3.

(b) As used in this section, "account owner" has the meaning set forth in IC 21-9-2-4.

(c) As used in this section, "individual account" has the meaning set forth in IC 21-9-2-2.

(d) As used in this section, "qualified higher education expenses" has the meaning set forth in IC 21-9-2-19.5.

(e) Distributions from an individual account used to pay qualified higher education expenses are exempt from the adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 as income of an account beneficiary or an account owner.

*As added by P.L.15-2001, SEC.1.*